



SS 91. drums

STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following Agency of the State of Utah:

Dept. of Transportation	810	Proc./Statewide	referred to as STATE and the following:
Agency Name	Agency Code	Division	
CONTRACTOR	Ennis Paint Inc		LEGAL STATUS OF CONTRACTOR
Name	P O Box 671185		Sole Proprietor
Address			Non-Profit Corporation
Dallas	TX	75267	<input checked="" type="checkbox"/> For-Profit Corporation
City	State	Zip Code	Partnership
Annette Metcalf	(972)	878-8661	Government Agency
Contact Person	Phone Number		
752657523	91903A	63066868798, 63066869280, 63066869291	
Federal ID#	Vendor Number	Commodity Code(s)	

2. CONTRACT TYPE AND PURPOSE:

This is a requirements contract to provide the State with water bourne paint. A performance bond in the amount of \$477,435.00 is required.

3. PROCUREMENT: This contract is entered into as a result of the Procurement process on bid RF4138-1,
Requisition # 810 46000000115 ,FY 2004 .

4. CONTRACT PERIOD: Effective date 06/01/04 . Termination date 06/01/07 , unless terminated early or extended in accordance with the terms of this contract. Renewal Options (if any) 2 - (1) year .

5. CONTRACT COSTS: CONTRACTOR will be paid a maximum of \$999,999,999.99 for costs authorized by this contract

6. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions.
ATTACHMENT B: Scope of Work.
ATTACHMENT C: Itemized Price List.
ATTACHMENT D: Special Terms and Conditions.
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:

- A. All other governmental laws, regulations or actions applicable to the goods and/or services authorized by this Contract.
B. Utah State Procurement Code, Procurement Rules and Contractor's responses to Bid # RF4138 dated 05/11/04 .

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR
SEE ATTACHED

Contractor's Signature
ANNETTE METCALF

Contractor's Name
ASSISTANT VICE PRESIDENT

Title

STATE OF UTAH

David K. Miles, Operations Engineer

Director, Division of Purchasing

PROCESSED BY

DIVISION OF FINANCE

Director, Division of Finance

JUN 23 2004

JUN 28 2004

Debra Boulton

(801) 965-4070

(801) 965-4073

dboulton@utah.gov

Agency Contact Person

Phone Number

Fax Number

Email Address

ENT'D FEB 25 2005

JUN 17 2005

059006

MAIL TO:

Invitation to Bid

Solicitation Number: RF4138-1

STATE OF UTAH
DIVISION OF PURCHASING
3150 STATE OFFICE BUILDING, CAPITOL HILL
P.O. BOX 141061
SALT LAKE CITY, UTAH 84114-1061
TELEPHONE (801) 538-3026
<http://purchasing.utah.gov>



Due Date: 05/11/04 @ 2:00 P.M.

Date Sent: April 22, 2004

Goods and services to be "IN LIEU OF PREVIOUS BID" PROVIDE WATER BASED TRAFFIC PAINT

Please complete

Company Name ENNIS PAINT INC		Federal Tax Identification Number 752657523	
Ordering Address PO Box 404	City ENNIS	State TX	Zip Code 75120
Remittance Address (if different from ordering address) PO Box 671185	City DALLAS	State TX	Zip Code 75267-1185
Type <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person Annette MetCALF		
Telephone Number (include area code) 972-878-8661	Fax Number (include area code) 972-875-9038		
Company's Internet Web Address ENNISPAINT.NET	Email Address ANNETTE@ENNISPAINT.COM		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered) Net 30 DAYS	Days Required for Delivery After Receipt of Order (see attached for any required minimums) 30 DAYS ARO		
The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u>			
The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If no, enter where produced, etc. CALIFORNIA			
Offeror's Authorized Representative's Signature 		Date 5-7-04	
Type or Print Name Annette MetCALF		Position or Title ASSISTANT VICE President	

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract.

unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution, and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract:
1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)

SECTION 02765P

PAVEMENT MARKING PAINT

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Furnish Acrylic Water Based pavement marking paint meeting Federal Specification TTP-1952 D with the following exceptions. Refer to Article 2.1 for resin requirement.

1.2 REFERENCES

- A. ASTM D 562-01: Standard Test Method for Consistency of Paints Measuring Krebs Unit (KU) Viscosity Using the Stormer-Type Viscometer
- B. ASTM D 711-89(1998): Standard Test Method for No-Pick-Up Time of Traffic Paint
- C. ASTM D 1475-98(2003): Standard Test Method for Density of Liquid Coatings, Inks, and Related Products
- D. ASTM D 2205-85(1998): Standard Guide for Selection of Tests for Traffic Paints
- E. ASTM D 2743-68(1998): Standard Practices for Uniformity of Traffic Paint Vehicle Solids by Spectroscopy and Gas Chromatography
- F. ASTM D 3723-84(1999): Standard Test Method for Pigment Content of Water-Emulsion Paints by Low-Temperature Ashing
- G. ASTM D 3925-02: Standard Practice for Sampling Liquid Paints and Related Pigmented Coatings
- H. ASTM D 3960-02: Standard Practice for Determining Volatile Compound (VOC) Content of Paints and Related Coatings
- I. ASTM D 5381-93(1998): Standard Guide for X-Ray Fluorescence (XRF) Spectroscopy of Pigments and Extenders
- J. UDOT 2002 Standard Specifications for Road and Bridge Construction

1.3 ACCEPTANCE

- A. Successful bidder prepares one (1) one-quart sample of the intended black, white and yellow formulations for testing and reference purposes.

1. After receiving an intent to award, successful bidder secures the services of a national accredited or an UDOT approved independent laboratory to test the proposed paint and issue a certificate of compliance with these specifications using the referenced test methods.
2. Within thirty days of the notification of the intent to award, UDOT must receive all test results, certificates of compliance, and the quart samples directly from the testing lab to:

Vincent Liu
Utah Department of Transportation
4501 South 2700 West, Box 148250
Salt Lake City, UT 84114

If more time is needed, bidder submits written request to Vincent Liu explaining the reasons for the requested time extension. After reviewing the request, UDOT may grant the time extension, or go to the next lowest bidder.

3. Once certificates of compliance are received, UDOT performs the resin Color Test, IR and uniformity tests on the submitted samples and use these as comparisons for all future batches.
- B. Paint supplier certifies every batch and supplies test results for each shipment delivered to UDOT. In addition, paint supplier sends one-quart sample of each color to a national accredited or an UDOT approved independent laboratory to certify the paint for every 15,000 gallons UDOT-ordered paint they produced, testing laboratory sends test results to Vincent Liu. Paint supplier pays all paint testing costs. Laboratories perform the following tests for every UDOT-ordered paint batch:

1. Resin Color Test or IR (Pass/Fail)
2. Nonvolatile Vehicle (Percent by weight of Vehicle)
3. Total Solid (Percent by weight)
4. Total Pigment (Percent by weight)
5. Viscosity (KU)
6. Density (Weight per gallon)

- C. UDOT randomly samples and tests paints. If tested paints do not match with the first trial batch results, penalty shown in Table 1 below applies. If more than two delivered batches fail to match with the first trial batch results, UDOT may cancel the contract.

Table 1

Penalty Characteristic	25% Reduction of Bidding Price	50% Reduction of Bidding Price	Rejection
Resin IR*		Off by less than 10%	Off by more than 10%
NVV %	Off by 2% But less than 3%	Off by more than 3%	
Total Solids %	Off by 1% But less than 2%	Off by more than 2%	
Total Pigment %	Off by 2% But less than 3%	Off by more than 3%	
Viscosity, KU	Off by 3KU or less	Off by more than 3KU	
Density	Off by 0.2 lbs/gal But less than 0.3 lbs/gal	Off by 0.3 lbs/gal But less than 0.4 lbs/gal	Off by more than 0.4 lbs/gal

* UDOT will ensure random samples contain 100% of the correct emulsion.

D. Paint container specifications and delivery requirements.

1. Paint supplier supplies UDOT with enough containers to maintain a 3,000-gallon or more storage inventory of each color at each Region/District.
2. Regions/Districts may request 250-gallon-stainless steel totes with an internal bladder and a ball control valve with a 2" male cam-lock connection or 250-gallon-plastic totes. Contact Vincent Liu at (801) 965-4077 if you need additional information. Paint supplier labels each container with the following information.
 - a. Handling and Storage precautions
 - b. Safety and Environmental precautions
 - c. Production lot number, batch number, and date
 - d. Paint color
 - e. Paint supplier's phone number and emergency number
3. Paint supplier delivers product within 7 calendar days after receipt of order. Regions/Districts will arrange the delivery locations with Paint supplier.
4. Paint supplier contacts the Regions/Districts at least 24 hours before delivery.

PART 2 PRODUCTS

2.1 PAINT

- A. Acrylic Water Based Paint meets the specifications shown in Table 2 below:

Table 2

	Black	White	Yellow
Nonvolatile vehicle: Percent by weight vehicle	Minimum of 44. The nonvolatile portion of the vehicle is 100% acrylic crosslinking resin as determined by infrared spectral analysis. The acrylic emulsion is a 100% CROSSLINKING EMULSION.		
No-track Time	Not more than 7 minutes when tested according to ASTM D 711.		
Volatile Organic Compounds Content	Maximum of 1.25 lbs/gal ASTM D 3960.		
Pigment: Percent by weight	62 ± 2 ASTM D 3723.		
Total Solids: Percent by weight	Minimum of 79. ASTM D 2205.		
Titanium Dioxide Content	N/A	Minimum of 1 lbs/gal rutile titanium dioxide.	Maximum of 0.2 lbs/gal rutile titanium dioxide.
Directional Reflectance	N/A	Minimum of 92 at wet film of 5 mils.	Minimum of 50 at wet film of 5 mils.
Contrast Ratio	N/A	Minimum of 92, at wet film of 5 mils.	Minimum of 90 at wet film of 5 mils.
Viscosity @ 75°F (KU)	80-95		
Density Lbs/gal	14.1 ± 0.2		
Scrub Resistance	N/A	Minimum of 800 cycles, at wet film of 5 mils.	

2.2 GLASS SPHERE (BEADS) USED IN PAVEMENT MARKING PAINT

- A. Specific Properties: Contact Vincent Liu for beads specification.

Utah Department of Transportation
4501 South 2700 West, Box 148250
Salt Lake City, UT 84114

PART 3 EXECUTION - NOT USED

ATTACHMENT C: ITEMIZED PRICE LIST

White water based traffic paint	\$ <u>6.182/gal</u>
Yellow water based traffic paint	\$ <u>5.997/gal</u>
Black water based traffic paint	\$ <u>5.526/gal</u>

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

1. **CONTRACT PURCHASE:** This is a requirements contract to provide the State with Acrylic Water Based Pavement Marking paint for a period of three (3) years with the option for two one year renewals.
2. **CONTRACT ACCEPTANCE:** At the time the bid is signed by the Offeror, the signature of that Offeror will be used as a legally binding signature if awarded this contract. When signed by the Division of Purchasing and a Utah Department of Transportation representative and assigned a contract number, this document will become a legally binding contract with the Offeror for the contract period specified.
3. **QUANTITY OR AMOUNT ESTIMATES:** Estimated contract amounts/quantities are for bidding purposes only and are not to be construed as a guarantee to purchase any amount.
4. **PRICING:** The Contractor agrees that the prices bid on materials/services in this contract shall be guaranteed for a period of one (1) year. The unit bid price per gallon for traffic paint shall include the appropriate amount of catalyst, totes, freight and any additional attendant costs that is required by the specifications.

ANY CHANGE REQUEST ON PRICES MUST GUARANTEE THE PRICE FOR THE SAME LENGTH OF TIME AS INDICATED ABOVE AND MUST BE MADE AT LEAST THIRTY (30) DAYS PRIOR TO THE REQUESTED EFFECTIVE DATE. ANY REQUEST FOR CHANGE ON PRICES OR SPECIFICATIONS MUST INCLUDE SUFFICIENT DOCUMENTATION SUPPORTING THE REQUEST. REQUESTS FOR CHANGE ON PRICES OR SPECIFICATIONS SHALL NOT BE EFFECTIVE UNTIL IT IS APPROVED BY THE PROCUREMENT SUPERVISOR OR THE PROCUREMENT MANAGER OF THE UTAH DEPARTMENT OF TRANSPORTATION.

5. **WAGES:** The Contractor shall be responsible for all applicable company wages in accordance with the Federal, State and local laws and ordinances.
6. **INVOICING: THE CONTRACT NUMBER AND ORDER NUMBER MUST APPEAR ON ALL INVOICES, BILLS OF LADING, PACKAGES AND ALL CORRESPONDENCE RELATING TO EACH ORDER AND DELIVERY.**
In the event the State is entitled to a cash discount, the period of computation shall commence on the delivery date or the date of a correct invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval is authorized. The State reserves the right to adjust incorrect invoice.

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

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7. **NON-ASSIGNMENT**: The Contractor shall not sublet, assign or transfer any part of this contract without prior written approval from the Procurement Supervisor or the Procurement Manager of Utah Department of Transportation. The provision of monies due under this contract shall not be assignable without prior written approval from the Procurement Supervisor or the Procurement Manager of the Utah Department of Transportation.
8. **NON-COMPETE CLAUSE**: The Contractor represents its officers and employees are free to contract with the State and are not subject to restrictions by the terms of their present or past employment including, but not limited to an agreement not to compete for as a period of time unless disclosure has been made. Contractor must disclose to the State any possible conflicts, in writing, before the contract is signed and the State will evaluate whether to continue with contract execution. The State may elect to terminate a contract immediately with a Contractor who is subsequently determined to be subject to such restrictions without liability to the State. If the State elects to terminate as a contract for this reason, the State will supersede paragraph #12 in Attachment A - Standard Terms and Conditions and will not provide 90 day prior notice to the Contractor.
9. **LICENSING**: The Contractor agrees to secure and maintain all necessary licenses, permits and bonds that may be required by the State or local authorities to perform said service.
10. **DELIVERY**: Traffic paint shall be ordered on an as needed basis, and delivered within 30 days of order. All deliveries will be made by flat bed trailers only, with paint in plastic totes, deliveries made by other than flat bed trailers or plastic totes will be refused.

Delivery of paint is to be coordinated with the Region/District Paint Foreman, at least three (3) working days prior to arrival, unless otherwise designated by an authorized representative of the State. Delivery will not be accepted after working hours, weekends or holidays.

Alteration of this delivery schedule by the Contractor or Region/District will not be allowed without written consent of the Region/District Engineer for Maintenance.

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

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11. **DELIVERY INFORMATION:** Paint to be shipped in 250 gallon reusable containers with forklift skids and includes two way lifting lugs and 2" ball valves with 2" male quick connects at top and bottom of container.

These reusable, intermediate bulk paint containers remain the property of the Contractor. Contact Contractor who will arrange pick up of empty containers and pay return freight from State locations back to Contractors destination.

Containers to be marked with manufacturers name and address, emergency contact phone number, color of material, specification/formula number manufacture date and batch number and expiration date and any specific warning labels. Include gross weight and the weight of the container.

12. **PERFORMANCE BOND:** Upon notification of award of contract, the Contractor shall provide a performance bond or cashier's check amounting to fifteen percent (15%) of the bid amount guaranteeing performance and product.